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EXAMINER

VU, TUAN A

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2193

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/741,219

Applicant(s)

BOSWORTH ET AL.

Examiner

Tuan A. Vu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to the Applicant's response filed 5/21/07.

As indicated in Applicant's response, claims 22-24 have been added. Claims 1-24 are pending in the office action.

Claim Objections

2. Claims 1, 11, and 21 are objected to because of the following informalities: The phrase 'unnested data processing cell with respect to each other' appears to be improper use of language, or worse, a new subject matter, and requires syntactic adjustment to be commensurate with the original Specifications. Specifically, in the examples of markup language shown (Specifications, pg. 6-8, 12), the cells described as effectuating a computation order are seen as being what appear to be standard nested tag specifications. Lacking a deliberate definition of the term 'unnested' anywhere (the term *nest* not mentioned once) in the disclosure, it would be impossible to give such phrase 'unnested ... with respect to each other' a reasonable connotation that would be agree with the scenario wherein the *unnested* cells do include each a formula or a computation because, as a whole, this scenario combining all these claimed elements become hard to identify in light of the Specifications. One interpretation of the claim is that both cells are having equal specification type indicative of action/computation formula and that they distinguish from one another by the fact that one first cell dictates a order dependency (on the second) the realization of which is done only by processing the second cell after the first cell. Accordingly, the text related to Fig. 1, for example, in the Specifications does not make it clear whether cell 106 also has a formula specification (related to an order of execution), nor does it teach explicitly that cell 106 is under the hierarchical scope of cell 104 (whether nested under or

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distinct in scope). Further, the Specifications' examples in pg. 6 describe standard markup which teaches that cells are parsed one ahead of another, the subsequently processed cells would resolve the data called for in the earlier tagging scope. Whether those cells (which are recited as equally containing formula/action) are not nested inside one common scope OR actually separate from one another's scope remains unclear or at least NOT explicitly substantial laid out from the description (or worse, at least by way of reading the text explanation). Normal hierarchy of tags in a XSL based language teaches a mixture of action tags nested within various sub-scopes but all nested under higher scope tags, the higher scope tags most often including specification requiring a parsing order, rendering it very hard to discern when 2 action/formula tags (e.g. value-of select) tightly require that one should be parsed and executed first before the following formula would be, in the unlikely setting that they are apart in their own scope. Figure 1 and page 7 describes cells for attributes (embedding a cell formula) and cell output; but it is still indefinite (in view of mapping to the limitation as claimed) that both cell 108 (including cell 104) and cell 106 are not nested in the scope of one another or CLEARLY distinct from one another in tag scope; that is, despite the language of the claim, the disclosure only teaches cells with data specification that the processing/reading of one can only be resolved when the processing of the subsequent cell is effectuated, i.e. a specification of standard markup language.

The limitation so that these very cells are being 'unnested with respect to one another' can be only partially inferred or guessed via exerting effort in imparting/extracting some implicit insights (or reconstructing parts) based on reading the examples. A whole disclosure cannot be fulfilling description requirement for an invention --in terms of USC § 101 or § 112-- just by way of (a) examples, unless otherwise specified or declared accordingly, and (b) non-explicit

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teachings unless such teaching is overwhelmingly well-known and basically inherent. This *unnested* particularity is not conveyed in sturdy, explicit text and repeatable manner from scanning the Disclosure (no mention whatsoever about *nest* or mutual *scope* of formula definition); that is, conveyance from, *inter alia*, any example in pg. 6, 7 or Fig. 1 that would otherwise enforce that the first cell and the second cell are to be mutually unnested form of cells compliant with W3C specifications or markup nomenclature. Nor does the claim clearly recite that the cells belong to proprietary well-known language format. Suppose that the encompassing cell <sheet> (see example pg. 7) is processed first and includes within itself specification that requires order for parsing/executing (by virtue of markup hierarchy parsing), would it be reasonable to conclude that <sheet> which also specifies an action order be same as second cell <name=setup> which also includes a action? But from there to conclude that <sheet> is unnested from <name=setup> would be incorrect. Moreover, <xcell name=setup> (see Specifications, pg. 7) requires an order to be respected as name=setup is to be resolved first, then the enclosed <value-of select> formula cannot be construed as unnested in regard to <name=setup>. Further, if <value-of select> is a action cell and that hypothetically, another <value-of select> is required somewhere else in the example of pg. 7, it is deemed that both such cells equally contains an action formula; but that does not necessarily represent the claimed scenario (*data dependency*) that the first 'value-of select' tag would dictate a resolution order forcing the second 'value-of select' tag to be processed in order for the first 'value-of select' tag specification to be resolved. There is too much speculation and guessing by just reading the examples, requiring undue interpolating the effects of what is not literally recited or graphically depicted, in light of interpreting what is recited. In this objection, it is noted that reading the claim for an

understandable construction of teaching cannot be entirely supported by the disclosure, notwithstanding the extra reading-between-the-lines as set forth above; nor the lack of stability of information based on analyzing the internal of the Specs examples can qualify those examples as being representative of the claimed 'unnested' limitation. That is, it is not sure if the examples represent the disclosure as a must; and if even so, the questions would be: Do all the cells that have action formula necessitate a related order of dependency? would the outside or global scope tag/cell be qualified as completely definitely devoid of any trace of a formula (or order for parsing) that would disqualify them as mutually unnested cells, leaving the mutually unnested characteristic to only those cells that contain a formula inside? The disclosure distinguishes cells (see Specifications: pg. 7-13) and teach about a order of execution derived from parsing the formula inside some cells prior to executing subsequent formula in latter cell processing; but absent is a clear nesting correspondence or relationship for those cell as they are depicted that would clarify the requirements of the claim language.

The language of the claim does not have reasonable support from the Specifications and/or otherwise entails too much reading (for one skilled in the art making use of the Invention) into the examples and undue stretching over one variance thereof. When the claim is unclear it would be interpreted in light of the Specifications; however, the disclosure will not be read into the claims; and even though it would be treated to help clarify the claim like in this case, the disclosure is deemed insufficient and the claim language used seems stretched beyond the Specifications as in a **new matter**. In view of the above deficiency, the claimed 'unnested' limitation would be treated as (i) two formula statements (e.g. value-of select) that do not require an extraordinary execution sequence/order other than what is compliance to W3C; or (ii) two

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markup cells enforcing some order of resolution in that at least one has some specification requiring an action provided by the other, none of which cells necessarily separate from the scope of the other; because when their dependency is defined their scope intertwines, thus the nesting connotation must exist, i.e. the *unnested* limitation as claimed given very little patentable weight. Some language of the claim or of the Disclosure is to be corrected.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-24 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The claims 1, 11, and 21 recite ‘unnested with respect to each other’. Even if the Specifications were to be read into the claims, which is normally impermissible, the limitation as above recited lacks support from the cell specifications in the described context of a action formula and order of processing throughout the disclosure. This deficiency has been explained at length in the Claims Objections; and would not be repeated here. For absence of explicit and reasonable depiction of what constitutes *unnested with respect to each other* in light of the cell dependency order and the computation formula, one skilled in the art would deem that at the

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time the invention was made the Inventor has no possession of the following claimed paradigm: first and second cell specifications, un-nested with respect to each other, each including action formula, and processed in a dependency order specified in the first cell such that the execution order for processing the first cell has to be prior to that of the second cell. The only place showing a formula would be pg. 7 Example. This portion of the disclosure (by default of insufficient teaching in the claim) even fails to provide clear evidence that first, this XSLT example exhibits distinct cells wherein each includes a formula or an computation; and second, one such formula in one cell dictates processing in a obliged order before formula in another cell is. Because of such lack of disclosure, it appears as though the above limitation is derived solely on some aspects or variances of the markup specification examples; and since there is no definite statement enforcing that only one specific aspect of the example epitomize the invention, the crux of the claimed invention has to be based on the description in the Disclosure as a whole, not just an example or variance thereof, about which the above combination of features is deemed absent or not sufficiently described.

For the sake of the prosecution the above lack of description will be treated as follows: (i) two formulas cells (e.g. value-of select) that do not require a out-of-ordinary order of dependency; (ii) two markup cells enforcing some order of resolution in that at least one has some specification requiring an action provided and defined by/in the other, none of which cells necessarily separate from the scope of the other; because when their dependency is defined their scope intertwines, thus the nesting connotation must exist; i.e. the *unnnested* limitation as claimed being given very little patentable weight.

Claims 2-10, 12-20, 22-24 are rejected for failing remedy to the above deficiency.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-6, 8-16, 18-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Renner et al., USPN: 6,993,657(hereinafter Renner)

As per claim 1, Renner discloses a method of computing, comprising:

receiving at execution time (e.g. *XSL sheets, statements* - col. 39, line 62 to col. 42, line 34), a data processing specification having a first and a second data processing cell specification, unnested (with respect to each other), specifying a first and a second data processing cell respectively, with each data processing cell specification having a plurality of statements including a formula specifying an action or computation (e.g. Table 4, col. 38:

`<...METHOD="POST" ACTION= "dca.dca_forum_data.set_args"> xsl: apply-templates select=...>` lines 16-18; *xsl: value-of select* - lines 26, 34, 38, 40) the first data processing cell having a data dependency on the second data processing cell (e.g. Table 4, col. 38-39: first cell: line 33, 36, 39; second cell: lines 34, 37, 40 – Note: *fieldname*, *fieldlbl*, and *fieldval* depend on *@name*, *@label* and *@value*, respectively), and specified in a manner to be analyzed before the second data processing cell (Note: line 33, 36 processed before line 34, 37);

analyzing in real time, the first and then the second data processing cell specification to determine execution order of said actions/computations specified by said first data processing cell specifications, based at least in part on interaction or computation references between said actions or computations specified (e.g. col. 38, line 28 to col. 42, line 34) and determine order of execution based on tag sequencing of specifications (Note: using statements and formula/action inside xsl statement tags to effectuate HTML reads on determining execution order therein); and

effectuating the data processing specified by the data processing specification in accordance with the determined execution order of said actions/computations specified by said first and second data processing cell specifications (e.g. col. 41, lines 42 to col .42, line 19; col 43, lines 19-50- Note: SQL calls or POST method and variable processing with value substitution thereto reads on effectuating specification according to order of execution).

As per claim 2, Renner discloses each of said first and second data-processing cell specifications being delineated by a beginning and an ending data processing cell specification tag (e.g. <xsl: ... /> - Table 4, lines 33, 34).

As per claim 3, Renner discloses wherein said first data processing cell specification has a formula referencing a value (e.g. *fieldval*, *@value*, *VALUE="{fieldval}"* --Table line 39, 40, 54, respectively) of said second data processing cell specification.

As per claims 4-5, Renner discloses wherein one or both of said first and second data processing cell specifications comprise one or more attributes specifications specifying one or more attributes of the corresponding data processing cells(e.g. line 33, Table 4: *xsl: variable name=*, *xsl:value-of*; *TYPE= ...SIZE= ..CHECKED=*, line 54, line 64, table 4, col. 39); wherein

the first data processing cell has a first attribute referencing a second attribute of said second data processing cell(Note: *name* is referencing a subsequent *value* attribute)

As per claim 6, Renner discloses wherein said second data processing cell specification comprises a reserved mnemonic for providing input (e.g. col. 39, TABLE 4, lines 54, 62, 67) to the data processing specified by the data processing specification.

As per claim 8, Renner discloses wherein said second data processing cell specification comprises a conditionally (e.g. col. 39, Table 4, lines 61, 66) executed formula.

As per claims 9-10, Renner discloses wherein said data processing specification further includes one or more global attributes (*<td width= ...align=right>* col. 39; line 80, line 54, line 64 -Table 4, col. 39) specifying one or more global processing characteristics for the specified data processing;

wherein said one or more global attributes include a global attribute specifying a format (*<FORM...</FORM>*, line 16-21; *name @type="text"*, line 26; *<...SIZE="15/>*, line 54; *<FONT ... * lines 74-75, TABLE 4, col. 38-39)for providing the specified data processing with an HTTP request.

As per claim 11, Renner discloses an apparatus comprising:
at least one storage unit having stored thereon programming instructions designed to:
receive at execution time, a data processing specification having a first and a second data processing cell specification, unnested -- with respect to each other (e.g. *XSL sheets* - col. 39, line 62 to col. 42, line 34), specifying a first and a second data processing cell, with each data processing cell specification having a plurality of statements including a formula specifying an action or computation (e.g. Table 4, col. 38: *<...METHOD="POST" ACTION=*

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"dca.dca_forum_data.set_args"> xsl: apply-templates select=...> lines 16-18; xsl: value-of select - lines 26, 34, 38, 40),

the first data processing cell having a data dependency on the second data processing cell, and specified in a manner to be analyzed before the second data processing cell (Note: line 33, 36 processed before line 34, 37),

analyze in real time (e.g. Table 4, col. 38-39: first cell: line 33, 36, 39; second cell: lines 34, 37, 40 – Note: *fieldname*, *fieldlbl*, and *fieldval* depend on *@name*, *@label* and *@value*, respectively), the data processing specification to determine an execution order of said actions/computations specified by said first and second data processing cell specifications, based at least in part on interaction or computation references between said actions or computations specified (e.g. col. 38, line 28 to col. 42, line 34) and determine order of execution based on tag sequencing of specifications (Note: using statements and formula/action inside xsl statement tags to effectuate HTML reads on determining execution order therein); and

effectuate the data processing specified by the data processing specification in accordance with the determined execution order of said actions/computations specified by said first and second data processing cell specifications (e.g. col. 41, lines 42 to col. 42, line 19; col. 43, lines 19-50- Note: SQL calls or POST method and variable processing with value substitution thereto reads on effectuating specification according to order of execution); and at least

one processor coupled to said at Least one storage unit to execute said programming instructions (e.g. Fig. 1).

As per claims 12-16, and 18-20 these claims correspond to claims 2-6, and 8-10, respectively; hence are rejected with the corresponding rejection as set forth therein.

As per claim 21, this is a 'means-plus-functions' version claim corresponding claim 1, and comprises means for:

receiving at execution time (a data processing specification having a first and a second data processing cell specification, unnested --with respect to each other...);

analyzing in real time (the data processing specification to determine an execution order...)' and

effectuating (the data processing specified by the data processing specification in accordance...); all of these steps having been addressed in claim 1.

Hence, these limitations are herein rejected with the corresponding rejections as set forth therein.

As per claim 22, Renner discloses saving, after said determining, the execution order (e.g. Table 4 – col. 38-39; Fig. 6D – Note: Gui screen presenting order by which XML objects are sequenced as a result of a parsing and using XSLT construct implementation in order for these parsed objects to be visible for a HTML developer session **reads on** storing the order of XML parsing for display).

As per claims 23-24, refer to rejection of claims 22.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 7 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Renner et al., USPN: 6,993,657, as applied to claims 1, 11; in view of W3C, 'XML Path Language (XPath)' and 'XSL Transformation (XSLT) Version 1.0; *W3C Recommendation 16 November 1999*, respectively < <http://www.w3.org/TR/1999/REC-xpath-19991116> > and < <http://www.w3.org/TR/xslt> > (hereinafter W3C – submitted in previous Office Action).

As per claim 7, Renner discloses XSL cells having dedicated input specifications (re claim 6) as these are defined via means of XML and the user's template; and further teaches providing or presenting in response to user's input required components, components for the build or a forum evaluation; or/and push back to the user's interface (e.g. Fig. 5A, 5D; step 689 – Fig. 6c; step 740 -Fig. 7; Fig. 8-9; *configuration information, necessary software* - Fig. 12B) but does not explicitly teach that said style sheet first data processing cell specifications has a reserved output cell/template specification specifying output for the data processing specification. The use of XSLT specification language to provide a reserve cell in a template for output is disclosed by W3C (e.g. *xsl: output, xsl: output method* – pg. 9-10; chp. 16.1, 16.2 pg. 79-80). Since the methodology of using XSL methodology by Renner incorporates the features by W3C and Renner's approach is using XML/XSL format via users request (Table 4) converting input into database request returns into the building interface, it would have been obvious for one of ordinary skill in the art at the time the invention was made to provide Renner's use of W3C and style sheets specification so that dedicated XSL field or tags are reserved to define output specifications as taught by W3C. One of ordinary skill would be motivated to do this because of the interactive nature of Renner's build having the user to assess

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data being returned from a request; and using XSL output cell dedicated specifications as by W3C would support the correctness of data conveyed in HTML form as they are returned into Renner's building/forum or customer service communication scenario (see Fig. 6C-D, Fig. 9, Fig. 10; col. 12, line 7 to col. 13, line 7) in that the user can assess the correct format via this output cell specification according to mime format and text/character type as mentioned by W3C in such that every build interface and submitted data field is appropriately addressed (see Renner Fig. 5C-D).

As per claim 17, this claim corresponds to claim 7; hence is rejected using the same rationale as set forth therein.

Response to Arguments

9. Applicant's arguments filed 5/21/07 have been fully considered but they are not persuasive. Following are the Examiner's observation in regard thereto.

Claims Objections:

(A) Applicants have submitted that the specifications of page 7 explaining relationship of cells in a scope context is deemed sufficient to express the 'unnested' limitation (Appl. Rmrks pg. 7, bottom) and that one of people skilled in the art of XSLT technology should be informatively familiar with the parent-child relationship therein and scope of elements as from the above example, such that 'unnested' does not need to be spelled out by Applicants (Appl. Rmrks pg. 8, top). The Objections has shown that the Specifications does not have a phrase mentioning about at least a pair of particular cells being distinct in scope and that which are having a formula/action type of statements embedded in each. Looking at the example at page 7 and digging into this Example, one can see that only <value-of select> indicates a formula type

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of statement (or instruction for an computation) inside a cell definition. If the aim were to investigate whether the example of page 7 does provide 2 distinct cells (as claimed) in which a formula or an computation is defined, one of ordinary skill in art does not see that the 2 distinct <x:xcell name /> subgroups are mutually unnested AND that contain each (emphasis added) a formula or computation statement, but instead, find that one such subgroup contains a variable name or a \$reference to a variable. It appears as though the whole claimed feature in question amounts to analyzing an example; and by means of which imparting what appears to be additional features to it in the absence of deliberate explicit and pertinent textual support from the corresponding description related to that example. The Applicants seem to utilize the recourse of implicit teaching like well-known 'nested' or 'unnested' concept in 'XSLT' (as though the claim is really reciting XSLT) and appear to exhibit a form of disclosed novelty based upon such imported but well-known feature, by persuading --via mere arguments --that the above Example is stark evidence of the invention (to support this well-known concept); that is, again via arguments only, showing that the claimed (nest-to-nest) relationship resides in an example wherein 2 (well-known XSLT type of nested) cells are mutually unnested and contain each formula/action instruction and doing all that, in absence of any accurate and reasonable details implementing the limitation in question. The argument cannot take place of factual evidence from the Specifications, and reading between the lines of an example cannot replace deliberate, credible and substantial teaching according to what 35 USC 112 and § 101 require. Implicit teaching, inherent teaching as proffered in Applicants' arguments cannot be given weight because the *nested* or *unnested* term is not well and universally accepted a concept when conveyed in a language construed via mere 'data processing cell', particularly for the Example

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(as proffered at page 7) to suddenly bear that implicit teaching and for the claim to contain such imported teaching. If it this concept were really for XSLT and claimed so, the disclosure (by default of the claim) has to provide clear evidence that (i) this XSLT example exhibits distinct cells wherein each includes a formula in a context that (ii) one formula in one cell dictates processing in a obliged order before formula in another cell is. The claim does not recites XSLT nor does the Example, if convincingly proved to be the core of the invention, conveys the above required characteristics (i) and (ii). Indeed, the Example given does not provide a clear demonstration that one <value-of select> enforces it to be processed before one same or another formula in another XSLT cell of a distinct scope. The disclosure makes no allusion to the order of preference when processing a formula in a believable context that each such formula belongs to a distinct cell of the likes of XSLT format. The argument appears to imply that when interpreting the merits of an invention it is required that the Examiner --as one of skill in the art - - admit or understand 'data processing cell' as though this a well-known XSLT language without explicit claiming of such; and by this understanding also acknowledge that *unnested* cells do belong to each subdivision of a more global scope of other higher cells in such XSLT form especially for those familiar with this unclaimed 'XSLT' language. The Applicants' argument seems to be attempting on making sense out of non-explicit teaching from the Specifications; grappling onto reading between the lines; or enforcing implicit teaching when analyzing a mere example as though the core of the Disclosure is resting on this ONE example. According to the above analysis, the example (of page 7) does not seem to sturdily corroborate to the recited feature of the claim, absent textual teaching details as analyzed above; nor is there any statement in the Disclosure attesting that the example is actually illustrating or epitomizing this very crux

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feature: unnested cells including each a formula dictating that the first formula in one cell has to be processed before the second one; as interpreted from the claim language.

The objection to the claim is maintained because of the lack of persuasion in the Applicants approach, notably due to the lack of clear, deliberate and substantial teaching in the Specifications. An invention cannot be established in terms of genuine merits via mere arguments requiring implicit teaching (whereby the Applicants would not have to provide support) from one skill in the art, based on which to further invoke undue analysis by one reading the Specifications to gather more between-the-lines material from what appears to be unconvincing and non-illustrative sole example, while ignoring the rest of the Specifications.

(B) Applicants have submitted that that the MPEP § 2163 makes provisions allowing examples to be treated as Specifications, with equal weight in supporting the claims; and as long as the Description fulfills the requirement of 35 USC § 101, written description is not directly related to this statute (Appl. Rmrks pg. 8). The objections to the claim is valid because on the lack of teaching to support the ‘unnested’ limitations; and this will implicate a USC § 112, first paragraph. The argument against the USC 112 paragraph will be addressed in due time.

35 USC § 112 Rejection:

(C) Applicants have submitted that by pointing out one feature via an example as explained in the observations against the Claims Objections, the applicant is deemed having fulfilled the 35 USC 112 written description requirement (Appl. Rmrks pg. 9, top). The claim requires that cells are unnested with each other, and that they contains a formula for computation in each such that the order of processing of one such action in one unnested cell would have to be enforced over the other formula in the other unnested cell. The Claim Objections has at length proved that such

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claim language has no sturdy support from the Specifications, and if it comes down to exerting undue analyzing of one example, the example fails to show fulfillment of the simultaneous requirements of (a) unnested cells belonging to distinct subsopes within a more global scope; (b) each such cells having formula/computation statement included therein such that (c) processing one such computation statement has to be in a manner that one such formula corresponding action precedes another action corresponding to the other cell's formula. If the crux of the inventive step amounts to just one example as it become more and more apparent from the arguments, then this description by way of one example does not seem to fulfill the USC 112 requirement. The one Example does not provide newer teaching than which one of ordinary skill in the art would not already have learned from language like XSLT. The Specifications does not provide a single implementation details about some type of novel parser that would enforce a new processing rule-based directive to sway standard XSLT (Specs, pg. 7, Example) into a new form of language parsing. And more seriously, even if the *Specifications* were to be read into the claim (which is not permissible), Example of page 7 does not provide all the prongs required to very reasonably and sufficiently corroborate to all the features recited in the claim. The analysis of the combination comprised of deficiency of the lack of textual clarification, the vague example, and the Applicant's recourse to implicit teaching without even claiming XSLT has been set forth in section A above. The § 112, 1st paragraph rejection will be maintained; the argument not sufficient to overcome the rejection.

35 USC § 102 Rejection:

(D) Applicants have submitted that nowhere Renner discloses 'unnested cells with respect to each other... first data processing cell having a data dependency ... before the second data

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processing cell' notably in light of the full support for the 'unnested with respect to each other' in the Applicants' response (Appl. Rmrks pg. 10). The limitation requiring formula/computation statement in each of the unnested cells has been identified as not being provided with proper description whatsoever in the Disclosure; and in light of broad interpretation and little weight given to such claimed features in view of the demonstration about the Inventor's not having possession of such. The argument requiring 'unnested' to be implicit knowledge well-known for anyone familiar with XSLT is deemed founded on terminology not commonly accepted and methodology not claimed; and yet what appears to be the novel aspect of the invention seems to be founded on this implicit teaching requiring one of ordinary skill in the art to fill in for these non-explicit teachings. In view of the USC § 112 rejection, and broad interpretation as a result thereof, Renner is deemed to have fulfilled the processing cell and the required order of processing as claimed, notwithstanding the effect of the 'unnested' limitation in the processing order, for the solid reasons as set forth above. And the rejection has shown each cited part to map the processing order and formula inside each of the cells. It is also noted that from the claim onset, a cell is subjected to 'processing' and that it is likely a parser that truly processes a cell; making the parser a data processing entity as opposed to 'data processing cell', which represents incongruous an use of English construct because a passive cell (being merely a language construct) never actually processes any data when the active processing entity entails a parser. The claim language is marred with improprieties, and worse of all, not supported by the Specifications for one skill in the art to grasp the legitimate genuine crux (or implementation thereof) of the invention without undue analysis or extraneous analysis effort. Renner's example of XSLT constructs including its formula statements represent the claim as it is recited; and the

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argument against Renner not showing ‘unnested’ cells with respect to each other will be referred to the Claims Objections and USC 112, as well as the arguments previously provided against similar arguments in the Non-Final Office Action dated 2/28/07.

(E) Applicants have submitted that, the unnested limitation put aside, Renner does not teach ‘analyzing ... the first and then the second data processing cell ... to determine execution order’ (Appl. Rmrks pg. 11, top para) because Renner using a predetermined tree order would be teaching away from the invention. The claim language is not providing a solid insight as to what is the processing agent; what this **execution order** is all about, what is the role played by the ‘unnested cells’ with their formula therein when this order is determined; how in fact a ‘data processing cell’ performs a processing for it to be called ‘data processing cell’; what entity is trying to determine an order based on reading a formula inside a ‘data processing cell’; what is behind this ‘determining’ for it to be any different from parsing a markup construct and concurrently seek in a structured order data that need to be resolved for a tagged computation type of instruction. The example of XSLT at page 7 has been analyzed as not even sufficient to provide insight as to how parsing a first ‘value-of select=’ can accomplish (what appears to be a leap into) knowing what is the next ‘value-of select=’ to process before hand and so skipping the first ‘value-of select=’. But the lack of description has been addressed above. Parsing a XSLT encompasses what data would be next to resolve; thus, an order has been deemed being determined. If the cited portions by Renner are alleged (Appl. Rmrks pg. 11, 2nd para) to be teaching away from the claimed ‘analyzed before’ limitation (e.g. Renner not showing that processing of the first cell has to be preempted by the order requiring that the second cell be processed prior to the first cell) it is urged that Applicant overcome the USC 112 rejection, and

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the Claim Objections, (let alone readjusting the claim language) and after which, presenting a valid portion in the Disclosure showing a clear execution order being **determined** by merely analyzing some formula inside the cell specifications as claimed; and all that, in a way that would render the XSLT lay-out by Renner (emphasis added) inapposite in terms of execution order determination. When so many entities or details appear invisible from a broad language, broad interpretation has to be utilized to fill in for the non-explicit teachings. Renner by scanning the tag computation inside the cells of a XSLT subdivision is deemed sufficient to fulfill receiving a XSLT specification in which cells are analyzed so to determine order of execution. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

In short, the Applicants seem to have the invention built on a basis of a non-proprietary terminology which has no definition in the Disclosure; and in supporting the statutory validity thereof in terms of USC 112, invoke one of ordinary skill's level of well-grasped knowledge in regard to said terminology (like 'unnested') when the claim does not recite any well-known methodology (as in XSLT) which would otherwise dictate inherent teaching; and attempt to clarify that one example in the Specifications would suffice to put the invention in a patent eligibility perspective. If the crux of the novel matter resides in the particular way whereby computation statement inside a XSLT cell is processed against the normal flow of the likes of Renner's parsing process flow, this particular entity enforcing the peculiar order of execution is not shown evident from the claim or the Specifications. Notwithstanding all the informalities as set forth in the Objections and § 112 Rejection, it is concluded that Applicants appear to stretch

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patentability of a claimed invention using one example instance as embodiment, while still clinging on some non-explicit teaching, and in doing so, are not being able to convince that said example has true support for **each and every** limitations of the elements of the claim taken as a whole. In all, the claims will stand rejected as set forth in the Office Action.

The above observations will apply against the arguments related to the § 103 rejection.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan A Vu whose telephone number is (571) 272-3735. The examiner can normally be reached on 8AM-4:30PM/Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571)272-3756.

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The fax phone number for the organization where this application or proceeding is assigned is (571) 273-3735 (for non-official correspondence - please consult Examiner before using) or 571-273-8300 (for official correspondence) or redirected to customer service at 571-272-3609.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2100 Group receptionist: 571-272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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